

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS (EASTERN DIVISION)

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 11-cv-4713
)	
TRACY L. SUNDERLAGE; LINDA)	
SUNDERLAGE; SUNDERLAGE RESOURCE)	
GROUP INTERNATIONAL, LTD. a/k/a SRG)	
INTERNATIONAL LTD.; SRG)	
INTERNATIONAL U.S. LLC; MAVEN U.S.)	
LLC d/b/a MAVEN LLC; and RANDALL)	
ADMINISTRATION LLC,)	
)	
Defendants.)	

UNITED STATES'S MOTION FOR COSTS FOR FAILURE TO WAIVE SERVICE

The United States of America, pursuant to Rule 4(d)(2) of the Federal Rules of Civil Procedure, hereby moves the Court for an award of costs for expenses incurred in making service upon Defendant Maven U.S. LLC, as well as for an award of costs and fees incurred in litigating this motion. The basis for this request is as follows:

1. The United States filed this Complaint for Permanent Injunction and Other Relief on July 13, 2011, naming Maven U.S. LLC as one of the defendants. (Doc. 1.) Leah Bytheway is the registered agent for Maven U.S. LLC. (Exhibit A, Affidavit of Ellen Weis ¶ 3; Exhibit B.) Maven U.S. LLC is a domestic company. (Affidavit of Leah Bytheway ¶ 3, Doc. 50-1; Exhibit B.)
2. Maven U.S. LLC, an unincorporated association, is subject to service under Rule 4(h) of the Federal Rules of Civil Procedure. Accordingly, the United States may seek a waiver of service from Maven U.S. LLC, and Maven U.S. LLC "has a duty to avoid unnecessary expenses of serving the summons." Fed. R. Civ. P. 4(d)(1).

3. On July 13, 2011, counsel for the United States contacted Bytheway by phone and mail and requested that Maven U.S. LLC waive service. (Exhibit A, Weis Aff. ¶ 2.) In doing so, the government provided Maven U.S. LLC with all of the information required by Rule 4(d)(1) of the Federal Rules of Civil Procedure. (*See id.*)
4. As of the date of this motion, the United States has not received an executed waiver from Maven U.S. LLC, and more than 30 days has passed since the request was made. (*Id.* ¶ 6.) On August 15, 2011, counsel for the United States spoke with Denis Conlon, who refused to accept service of the complaint and summons on behalf of Maven U.S. LLC. (*Id.* ¶ 7.)
5. The United States has since served Maven U.S. LLC through a process server. (*Id.* ¶ 8.)
6. In seeking to obtain a waiver of service from Maven U.S. LLC, the United States complied with all of the requirements identified in Rule 4(d)(1) of the Federal Rules of Civil Procedure. Accordingly, unless Maven U.S. LLC can demonstrate good cause, “the court must impose on the defendant: (A) the expenses later incurred in making service; and (B) the reasonable expenses, including attorney’s fees, of any motion required to collect those service expenses.” Fed. R. Civ. P. 4(d)(2).

For the foregoing reasons, the Court should grant the United States's Motion for Costs for Failure to Waive Service, and allow the United States an opportunity to submit an itemization of expenses incurred in effecting service on Maven U.S. LLC and litigating this motion.

Dated: September 16, 2011.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2011, I electronically filed the United States's MOTION FOR COSTS FOR FAILURE TO WAIVE SERVICE with the Clerk of Court using the CM/ECF system which will notify all registered participants, including:

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/s/Harris J. Phillips
HARRIS J. PHILLIPS
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